

WYATT, TARRANT & COMBS

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NASHVILLE, TENNESSEE 37219-1750

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FAX: 615 256-1726

CITIZENS PLAZA
LOUISVILLE, KY 40202-2898
502 589-5235

1700 LEXINGTON FINANCIAL CENTER
LEXINGTON, KY 40507-1746
859 233-2012

TAYLOR-SCOTT BUILDING
FRANKFORT, KY 40601-1807
502 223-2104

101 WEST SPRING STREET, SUITE 500
NEW ALBANY, IN 47150-3610
812 945-3561

29 MUSIC SQUARE EAST
NASHVILLE, TN 37203-4322
615 255-6161

6800 POPLAR AVENUE, SUITE 200
MEMPHIS, TN 38138-7445
901 537-1000

WRITER'S DIRECT DIAL NUMBER

615 251-6713
kwalkup@wyattfirm.com

July 14, 2000

K. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37219

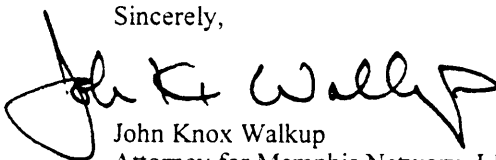
VIA HAND DELIVERY

RE: Application of Memphis Network, LLC for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunication Services and Joint Petition of Memphis Light, Gas & Water Division, a Division of the City of Memphis, Tennessee ("MLGW") and A&L Networks-Tennessee, LLC ("A&L") for Approval of Agreement between MLGW and A&L regarding Joint Ownership of Memphis Network, LLC; Docket No. 99-00909 - Motion in Limine

Dear Mr. Waddell:

Enclosed you will find the original and thirteen (13) copies of Motion in Limine of Applicant and Joint Petitioners.

Sincerely,



John Knox Walkup
Attorney for Memphis Network, LLC
and A&L Networks-Tennessee, LLC

JKW/kms

Enclosures

cc: Parties of Record
D. Billye Sanders, Esq.
J. Maxwell Williams, Esq.
Ward Huddleston

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE: APPLICATION OF MEMPHIS)
NETWORK, LLC FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE INTRASTATE)
TELECOMMUNICATION SERVICES)
AND JOINT PETITION OF MEMPHIS)
LIGHT, GAS AND WATER DIVISION,)
A DIVISION OF THE CITY OF MEMPHIS,)
TENNESSEE ("MLGW"), A&L)
NETWORKS-TENNESSEE, LLC ("A&L"))
FOR APPROVAL OF AGREEMENT)
BETWEEN MLGW AND A&L REGARDING)
JOINT OWNERSHIP OF MEMPHIS)
NETWORK, LLC.)

DOCKET NO. 99-00909

MOTION IN LIMINE

MEMPHIS NETWORK, LLC ("Applicant") and MEMPHIS LIGHT, GAS AND WATER DIVISION, and A&L NETWORKS-TENNESSEE, LLC ("Joint Petitioners") respectfully submit this Motion in Limine requesting an order excluding any testimony or evidence or any discovery regarding certain matters specified below at the hearing of the above entitled action:

1) Any and all testimony or documents sought through the Subpoena Duces Tecum of Elizabeth Brown attached hereto or otherwise relating to the Shelby County Circuit Court lawsuit, *Brown v. A&L Underground, Inc.* (copy of Complaint attached hereto).

2) Any testimony by Elizabeth Brown, 6285 Royal Muse Drive, Millington, Tennessee 38053, regarding the matters involved in the Shelby County Circuit Court lawsuit, *Brown v. A&L Underground, Inc.*

In support of the Motion in Limine, Memphis Networx, LLC, Memphis Light, Gas and Water Division, and A&L Networks-Tennessee, LLC would further state as follows:

1) Notice of a subpoena duces tecum of Elizabeth Brown was delivered by U.S. Mail to counsel for the Applicant and Joint Petitioners on July 12, 2000. No date of issuance or service appears on the copy of the subpoena sent to counsel for the Applicant and Joint Petitioners.

2) At a Pre-hearing Conference held on July 6, 2000, the Applicant and Joint Petitioners' Motion to Close Discovery was granted by the Pre-hearing Officer and confirmed in an order entered on July 12, 2000.

3) At the July 6, 2000, Pre-hearing Conference, counsel for Time Warner Telecom of the Mid-South, LP, Time Warner Telecommunications of the Mid-South, and the Tennessee Cable Telecommunications Association in response to an inquiry from the Pre-hearing Officer stated that "our witnesses or our direct proof would be Sedberry and Barta and I guess in that order." (Transcript at 36).

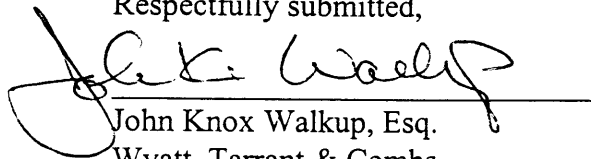
4) The proceeding about which the subpoena seeks information is a proceeding (*Brown v. A&L Underground, Inc.*) that does not have as a party the Applicant, a Joint Petitioner, or any intevenor in this proceeding.

5) Any documentary evidence or testimony sought in the subpoena to Elizabeth Brown should be excluded on the basis that it is not relevant to this proceeding and it is clearly untimely.

6) Injustice, delay, and confusion will result if the above matters are introduced or presented at the hearing.

Therefore, Applicant and Joint Petitioners move that all documentary or testimonial evidence sought to be obtained by the subpoena issued to Elizabeth Brown be excluded from the hearing of this matter.

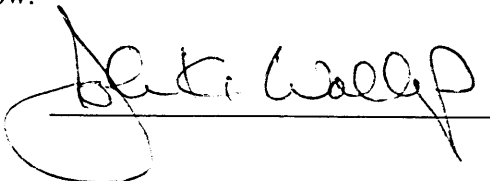
Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Knox Walkup", is written over a horizontal line.

John Knox Walkup, Esq.
Wyatt, Tarrant & Combs
511 Union Street, Suite 1500
Nashville, TN 37219-1720
(615) 244-0200
Attorney for A&L and
Memphis Networx, LLC

CERTIFICATE OF SERVICE

I, John Knudsen, hereby certify that on this 14th day of July, 2000,
a true and correct copy of the foregoing was delivered by hand delivery, facsimile or U.S. Mail
postage pre-paid to the Counsel of Record listed below.

 Esq.

Henry Walker, Esq.
Boulton Cummings Connors & Berry, PLC
414 Union Street, Suite 1500
P. O. Box 198052
Nashville, TN 37219
Attorney for NEXTLINK, Tennessee, Inc.

Guy Hicks, Esq.
Patrick Turner, Esq.
BellSouth Telecommunications, Inc.
333 Commerce Street, Suite 2101
Nashville, TN 37201-3300
Attorneys for Bell South
Telecommunications, Inc.

Charles B. Welch, Jr., Esq.
Mathews, Branam, Bobango & Hellen, P.L.C.
618 Church Street, Suite 300
Nashville, TN 37219
Attorney for Time Warner of the Mid-South, L.P.
and the Tennessee Cable Telecommunications
Association

Lee J. Bloomfield, Esq.
Allen, Godwin, Morris, Laurenzi &
Bloomfield, P.C.
One Memphis Place
200 Jefferson Avenue, Suite 1400
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Attorney for the International
Brotherhood of Electrical Workers
Union, Local 1288

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Bass, Berry & Sims
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Attorney for Concord Telephone
Exchange, Inc., Humphreys County
Telephone Company, Tellico Telephone
Company, Inc., and Tennessee Telephone
Company

Vance L. Broemel, Esq.
Consumer Advocate Division
Office of the Attorney General
& Reporter
Cordell Hull Building
425 5th Avenue North
Nashville, Tennessee 37243-0500
Consumer Advocate Division

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**APPLICATION OF MEMPHIS NETWORKX, LLC
FOR A CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY TO PROVIDE INTRASTATE
TELECOMMUNICATION SERVICES AND JOINT
PETITION OF MEMPHIS LIGHT GAS & WATER
DIVISION, A DIVISION OF THE CITY OF
MEMPHIS, TENNESSEE ("MLGW") AND A&L
NETWORKS-TENNESSEE, LLC ("A&L") FOR
APPROVAL OF AGREEMENT BETWEEN MLGW
AND A&L REGARDING JOINT OWNERSHIP OF
MEMPHIS NETWORKX, LLC.**

DOCKET NO. 99-00909

SUBPOENA DUCES TECUM OF ELIZABETH BROWN

**TO: Elizabeth Brown
6285 Royal Muse Drive.
Millington, Tennessee 38053**

Pursuant to Tennessee Code Annotated § 4-5-311(a), you are hereby commanded to appear at the time, dates and place specified below for the purpose of giving testimony. In addition, you are to produce and make available the items listed. Failure to appear and/or produce the listed items may result in punishment by fine and/or imprisonment, as provided by law.

TIME & DATES: 3:00 P.M. – July 18, 2000;
9:00 A.M. – July 19, 2000; and
9:00 A.M. – July, 20, 2000

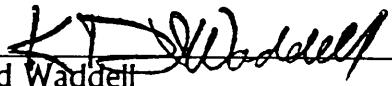
PLACE: Tennessee Regulatory Authority's Hearing Room on the
Ground Floor, 460 James Robertson Parkway, Nashville,
Tennessee.

ITEMS TO BRING: Any and all documents related, in any way, to the Shelby County circuit court lawsuit, Brown v. A&L Underground, Inc. (complaint attached hereto). "Document" is defined as any medium, including computers or other electronic media, upon which intelligence or information can be recorded, stored and/or retrieved, and includes, without limitation, the original and the copy, regardless of origin or

location, of any book, record, report, statement, diary, calendar, schedules, progress schedules, time logs, drawings, notes, audio tape, video tape, computer disk, computer tape, computer printout, electronic or voice-mail message, pamphlet, periodical, letter, memorandum (including memorandum, note or report of a meeting or conversation or any other written, typed, reported, transcribed, punched, taped, filmed, electronic or graphic mater, however produced or reproduced.

This subpoena is being issued on behalf of the Intervenor in the referenced docket, Time Warner Telecom of the Mid-South, L.P., Time Warner Communications of the Mid-South, and the Tennessee Cable Telecommunications Association, represented by John M. Farris of the law firm of Farris, Mathews, Branam, Bobango & Hellen, P.L.C., One Commerce Place, Suite 2000, Memphis, Tennessee 38103, (901) 259-7100.

John M. Farris
Attorney for Intervenor



David Waddell
Executive Secretary of the Tennessee Regulatory Authority

RETURN ON SERVICE

I, _____, certify that on the date indicated below, I served a copy of this subpoena on the witness stated above.

I, Elizabeth Brown, acknowledge being served with this subpoena on the date indicated below.

Elizabeth Brown

DATE OF SERVICE: _____

Sworn to and subscribed before me on this _____ day of _____, 2000.

Notary Public

My Commission Expires:

① Sum. 8.7
Knox Co.
w/ 17.00

IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

BETH BROWN, d/b/a CSM, INC.

Plaintiff,

v.

A & L UNDERGROUND INC.,

Defendant.

FILED
JUN 2 1997
CLERK OF COURT
D.C.

NO: 30048 D-1

COMPLAINT

Comes now the Plaintiff, Beth Brown, doing business as CSM, Inc., and sues the Defendant, A & L Underground, and would state for cause unto the Court as follows:

JURISDICTION

1. Plaintiff, Beth Brown, d/b/a CSM, Inc., is and as all pertinent times hereto a citizen of Shelby County, Tennessee.
2. A & L Underground, Inc., a Kansas corporation, registered with the State of Tennessee to do business in the State of Tennessee on October 29, 1987. Agent for service is C. T. Corporation, First Tennessee Bank Building, 6th Floor, Knoxville, Tennessee 37902.
3. That all acts, contracts and tortious acts occurred in Shelby County, Tennessee.

FACTS

4. In the early part of 1997, Larry Morgan, local manager of the defendant, A & L Underground, Inc. called plaintiff, Beth Brown, and inquired as to whether or not she was a woman business enterprise. When plaintiff advised that she was not, he stated that Mr. Michael McInerney of the home office wanted to create a new company and registered it as a woman's business enterprise and then run all of A & L Underground's equipment lease through said company in order that they could comply with the Memphis, Light Gas and Water requirement for minority enterprises to be involved in major contracts.

5. Defendant, A & L Underground, Inc. represented and
- 7063HJ.1

advised your plaintiff that it would incorporate a company called CSM, Inc. on their behalf and assist her in registering it in order that they would meet the minority quota for government contracts. The defendant never incorporated, to plaintiff's knowledge, the company as CSM, Inc.

6. The defendant then contacted United Equipment, Inc. and negotiated contracts with United Equipment, Inc. assuring payment for CSM, Inc., allowing CSM to rent equipment with complete understanding that said equipment would be directly leased to A & L Underground, Inc. with payments to be made by A & L Underground, Inc. to CSM, Inc. and United Equipment, Inc. All of said contracts are attached hereto collectively as Exhibit "A".

7. The defendant then made payment pursuant to said agreement to both CSM, Inc. and United Equipment, Inc. until March, 1998, at which time the defendant, A & L Underground, Inc. stopped making payments to CSM, Inc.

8. Further, it is alleged that the defendant then used lease payments made through CSM, Inc. to United Equipment, Inc. to purchase said equipment from United Equipment, Inc.

9. That United Equipment, Inc. is making demand upon your plaintiff, CSM, Inc., for lease payments owed by A & L Underground, Inc. to CSM, Inc.

WRONGFUL ACTS

FRAUD

10. The defendant, A & L Underground, Inc., did fraudulently induce, the plaintiff, Beth Brown, to enter into an agreement under the name of CSM, Inc. with United Equipment, Inc. and the defendant A & L Underground, Inc. causing the plaintiff damage.

BREACH OF CONTRACT

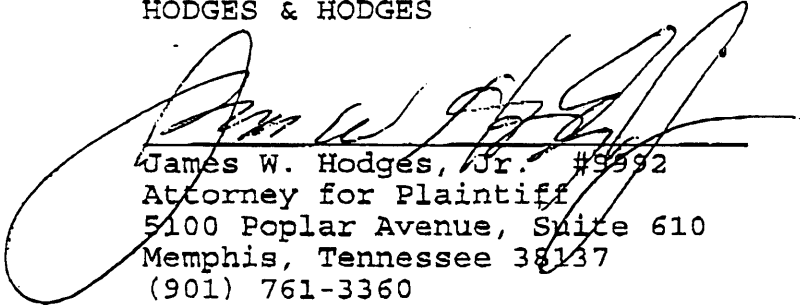
11. That the defendant, A & L Underground, Inc., has breached each and everyone of the contracts entered into with CSM, Inc. and presently owes the plaintiff rental fees in the amount of \$51,148.70 and for management fees in the amount of \$886.50 for a total amount of debt equalling \$52,034.67.

WHEREFORE PLAINTIFF PRAYS:

1. That proper service if process be issued and served upon the Defendant, A & L Underground, Inc.
2. That the plaintiff be awarded a judgment in actual damages in the amount of \$52,034.67 plus prejudgment interest, attorney fees and punitive damages in the amount of \$100,000.00.
3. For such other and further relief as the Court may deem proper.

Respectfully Submitted,

HODGES & HODGES



James W. Hodges, Jr. #9992
Attorney for Plaintiff
5100 Poplar Avenue, Suite 610
Memphis, Tennessee 38137
(901) 761-3360

STATE OF TENNESSEE)
COUNTY OF SHELBY)

I, Beth Brown, after being duly sworn, under oath states that the facts contained in the foregoing Complaint are true to the best of my knowledge, information and belief, and that the Complaint is not made out of levity or by collusion with defendant, but in sincerity and truth for the causes mentioned herein.

Beth Brown
BETH BROWN

Sworn to and subscribed to before me this 7th day of January, 1999.

My Commission Expires:

10-02-02

[Signature]